



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

CEPR-P (715)

7 Oct 03

MEMORANDUM FOR COMMANDERS/DIRECTORS, ALL USACE COMMANDS

SUBJECT: PARC Instruction Letter 2003-18

1. In accordance with EFARS 1.201-100, this PARC Instruction Letter (PIL) is issued to amend and revise the language in the EFARS pertaining to Acquisition Planning for Part 7, paragraph 7.102(S-102)(b)(v), Formal Acquisition Plans. Substitute pages are at Enclosure 1, matrix showing change and reason is at Enclosure 2, and the request for this revision from the Savannah District is at Enclosure 3. The team from Savannah District is to be commended for the excellent analysis and recommendation on this issue.

Handwritten initials: R

2. Substitute the pages at Enclosure 1 as follows:

Remove page(s)
7-2 and 7-3

Insert page(s)
7-2 and 7-3

3. If the subordinate command prefers to rely on a printed EFARS book (as opposed to the electronic EFARS on the PARC homepage), each substituted page is to be stamp dated on the bottom of the page with the corresponding date of this memorandum. Upon completion of the page removals, addressees are to post the PIL with the regulation. Addressees are also to ensure distribution of this PIL to all staff elements as necessary (i.e., engineering, construction, and legal offices).

4. Questions concerning this PIL should be directed to the EFARS Working Group Leader, Wayne Hardin at (202) 761-8647, Email clyde.w.hardin@usace.army.mil.

FOR THE COMMANDER:

3 Encl

Handwritten signature of Albert J. Castaldo
ALBERT J. CASTALDO, LTC(P), USA
Acting Principal Assistant Responsible
for Contracting

CF: Directors/Chiefs of Contracting

Please Note: Under the new provisions of EFARS 7.102(b)(v) it is not necessary to obtain a Formal Acquisition Plan where it is necessary to extend MSC geographic boundaries in order to align with a specific customer's geographic boundaries.

Handwritten initials: AG

ENGINEER FAR SUPPLEMENT (EFARS)

PART 7 — FEDERAL ACQUISITION REGULATIONS SYSTEM

Form 2579, Small Business Coordination Record, as an attachment.

(b) Except as provided in (c) below, a Formal Acquisition Plan shall be prepared for any acquisition (for any contract or for any program involving multiple contracts):

(i) for services, supplies, or development, when the total cost of all contracts for the program is estimated at \$15 million or more for any fiscal year or at \$30 million or more for all years, unless another threshold is prescribed in (ii) through (vi) below;

(ii) estimated at \$15 million or more for all years, including options, or \$5 million or more for any one year for A-E services,

(iii) for a program estimated at \$15 million or more for all years, that packages or consolidates discrete projects, including construction,

(iv) determined by the contracting officer to be nationally significant, such as, impacting a major USACE initiative, raising serious or unique environmental matters, implementing a deviation from the FAR, and/or concerning significant Congressional or political interest beyond normal constituent service,

(v) that is nationwide or extends beyond the MSC's geographical boundary, unless necessary to align with a specific customer's geographic boundaries. (*Note:* any Formal Acquisition Plan prepared to comply with this subsection (b) (v) or an Informal Acquisition Plan for an acquisition that extends beyond an MSC's boundary to align with a customer's boundary shall comply with paragraph 5 b (5) of ER 5-1-10, Corps-Wide Areas of Work Responsibility, and the coordination documentation shall be attached to the plan), or

(vi) if directed by HQUSACE.

(c) Only the requirements in (b) (iv) and (vi) above apply to a single, fixed price contract for a discrete construction project (The requirements in (b) (i), (ii), (iii), and (v) above do not apply).

(d) The project management plan required in ER 5-1-11, Business Process, paragraph 7b(2)(a), shall include the Formal Acquisition Plan for that project.

(S-103) Informal Acquisition Plans.

An informal Acquisition Plan shall be prepared according to local policy for all acquisitions not requiring a Formal Acquisition Plan. The documentation and level of detail in the Informal Acquisition Plan will be commensurate with the value, complexity, and significance of the acquisition. The project management plan required by ER 5-1-11, Business Process, paragraph 7.b(2)(a), shall include the Informal Acquisition Plan for that project.

7.103 Agency-head responsibilities.

(h) (S-100) Reviewing and Approving Acquisition Plans and Revisions.

Encl 1

ENGINEER FAR SUPPLEMENT (EFARS)

PART 7 — FEDERAL ACQUISITION REGULATIONS SYSTEM

(a) Each OAS and Formal Acquisition Plan shall be fully coordinated with all staff elements, including the Deputy for Small Business. If coordination results in an unresolved difference of opinion, elevate the disagreement through command channels.

(b) The MSC Commander is the approval authority for any district OAS. HQUSACE is the approval authority for any OAS prepared by a center or HECSA.

(c) The PARC, HQUSACE, is the approval authority for all Formal Acquisition Plans.

(d) Local procedures shall establish the approval authority for Informal Acquisition Plans.

(e) Changes to an Acquisition Plan shall require approval at the same level as the original[†] plan.

(h) (S-101) Acquisition Strategy Panels.

(a) Each district, center and HECSA shall establish an Acquisition Strategy Panel, which may be an existing group, such as the Project Review Board (PRB), provided it includes all staff elements (see S-100 above). The Panel shall be responsible to the District or Center Commander to assure that the requirements of 7.102 (S-101) above are met.

(b) The Panel may establish separate, subordinate boards, if appropriate, to review requirements for breakout analysis of bundled requirements, set asides, as well as the appropriate balance of acquisition methods, contract types and contract sizes.

Encl 1 (cont'd)

EFARS WORKING GROUP (EWG)
ACTIONS ON EFARS PART 7 (2Oct 2003)

Current EFARS	Proposed EFARS	Reason/Comments
(S-102) Formal Acquisitions Plans. (v) that extends beyond the MSC's geographical boundary or is nationwide (<i>note:</i> any Formal Acquisition Plan prepared to comply with this subsection (b) (v) shall include the statement required by paragraph 5 b (5) of ER 5-1-10, Corps-Wide Areas of Work Responsibility), or	(S-102) Formal Acquisitions Plans. (v) that is nationwide or extends beyond the MSC's geographical boundary, unless necessary to align with a specific customer's geographic boundaries. (<i>Note:</i> any Formal Acquisition Plan prepared to comply with this subsection (b) (v) or an Informal Acquisition Plan for an acquisition that extends beyond an MSC's boundary to align with a customer's boundary shall comply with paragraph 5 b (5) of ER 5-1-10, Corps-Wide Areas of Work Responsibility, and the coordination documentation shall be attached to the plan), or	To provide flexibility to structure acquisitions to align with customer boundaries. (See analysis, attached to this PIL package, from the USACE Savannah District, dated July 14, 2003, subject: Recommendation to Delete the EFARS Requirement for Formal Acquisition Plans for Contracts Beyond MSC Geographical Boundaries.)

Encl 2



DEPARTMENT OF THE ARMY
SOUTH ATLANTIC DIVISION, CORPS OF ENGINEERS
ROOM 9M15, 60 FORSYTH ST., S.W.
ATLANTA, GEORGIA 30303-8801

REPLY TO
ATTENTION OF
CESAD-CT

27 August 2003

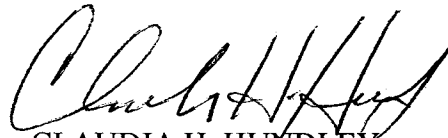
MEMORANDUM FOR Commander, US Army Corps of Engineers, ATTN: CEPR-P, 441 G Street NW, Washington, DC 20314-1000

SUBJECT: Recommended Revision to EFARS 7.102(S-102)(b)(v), Formal Acquisition Plans

1. Reference CESAS-CT memorandum dated 14 Jul 2003, Subject: Recommendation to Delete the EFARS Requirement for Formal Acquisition Plans for Contracts Beyond MSC Geographical Boundaries.
2. I have reviewed and fully concur with the recommendation set forth by CESAS-CT. The above referenced memorandum is enclosed herewith for your consideration.

FOR THE COMMANDER:

Enclosure


CLAUDIA H. HUNDLEY
Acting Director of Contracting
South Atlantic Division

Encl 3



DEPARTMENT OF THE ARMY

SAVANNAH DISTRICT, CORPS OF ENGINEERS
P.O. BOX 889
SAVANNAH, GEORGIA 31402-0889

REPLY TO
ATTENTION OF:

CESAS-CT

JUL 14 2003

MEMORANDUM THRU Commander, South Atlantic Division

FOR Commander, US Army Corps of Engineers

SUBJECT: Recommendation to Delete the EFARS Requirement for Formal Acquisition Plans for Contracts Beyond MSC Geographical Boundaries

1. References:

- a. EFARS 7.102(S-102)(b)(v), Formal Acquisition Plans
- b. ER 5-1-10, Corps-Wide Areas of Work Responsibility, 30 Sep 97

2. Current Status: The subject EFARS subparagraph establishes a requirement for USACE Districts to prepare a formal Acquisition Plan for approval by the PARC any time the geographical scope of the contract extends beyond the MSC's geographical boundary:

7.102 (S-102) (b)(v), Formal Acquisitions Plans.

(v) that extends beyond the MSC's geographical boundary or is nationwide (*note: any Formal Acquisition Plan prepared to comply with this subsection (b) (v) shall include the statement required by paragraph 5 b (5) of ER 5-1-10, Corps-Wide Areas of Work Responsibility*),

3. Background:

a. ER 5-1-10 was implemented to address two issues with respect to MSCs performing work outside their AORs:

(1) Brokering: Brokering is a voluntary agreement between Districts to jointly satisfy a customer's needs. Districts are encouraged to be open and flexible to entering into such voluntary agreements as they, "can go a long way in providing our customers with a 'one door to the Corps' philosophy." For the purpose of brokering work, the ER at paragraph 5.a. advises that when a customer wishes to deviate from normal Corps business practices, "The USACE activity with whom the customer desires to work must broker the work with the affected USACE activities..." The ER goes on to establish the process for brokering at paragraph 5.b.(5), "Brokered work assignments may be performed by MSCs, Labs, and FOAs outside their

CESAS-CT

SUBJECT: Recommendation to delete the EFARS Requirement for Formal Acquisition Plans for Contracts Beyond MSC Geographical Boundaries

assigned areas provided that they have the written approval of the USACE activity in whose geographical or functional area the work is located."

(2) Poaching: Poaching is defined as, "the unauthorized performance of work in another USACE activity's AOR." Poaching is forbidden by the regulation.

Under the regulation, work performed outside the MSC's AOR that is not brokered would constitute poaching unless approval is first obtained from the USACE Board of Directors (BOD).

b. The language at EFARS 7.102(S-102)(b)(v), was added to implement and enforce the requirements of ER 5-1-10 and requires that a formal acquisition plan be prepared and approved for any contract having a geographical scope extending beyond the MSC boundaries. The EFARS further requires that such acquisition plans include the language from paragraph 5.b. (5) of the ER, which relates to brokering.

3. Issues:

a. Lead Division Support to IMA Regions: The geographical AORs of some MSCs that have been assigned as the Primary Interface with IMA Regional offices do not align directly with the IMA region AOR. Consequently, a Division such as SAD does not have contracts to provide support to the Southeast Regional Office (SERO) of IMA, which includes installations in Kentucky. While Louisville District has primary responsibility for the military installations in Kentucky, as the primary interface between the Corps and SERO, SAD should be in a position to provide contract support to these installations, if needed. Under current EFARS guidance, Districts within SAD would have to obtain PARC approval on a Formal Acquisition for any contracts that would include Kentucky in the geographical scope.

b. One Door to the Corps: As noted above, one of the stated purposes of the ER in encouraging "brokering" is to enhance and move forward the concept of a single door to the Corps for our customers. The EFARS requirement for a Formal Acquisition Plan on any contract extending beyond the MSC geographical boundary constrains the Districts' ability to fulfill the spirit of brokering and the one door to the Corps as envisioned in the ER. The EFARS adds an extra step in the process that goes against the intent of the USACE Business Process and results in more time in the acquisition-planning phase. As a result, most contracts issued by the Districts that might otherwise be candidates for brokering are geographically limited to the MSC since the Districts are not preparing acquisition plans.

c. Multiple Regulations/Multiple Processes: ER 5-1-10 establishes a very specific procedure for approving and controlling the performance of work outside a MSC's geographical boundary. Under the ER, any work performed outside the MSC boundary that is not brokered or approved

CESAS-CT

SUBJECT: Recommendation to delete the EFARS Requirement for Formal Acquisition Plans for Contracts Beyond MSC Geographical Boundaries

by the BOD is unauthorized. The EFARS imposes a redundant control to accomplish essentially the same end. Therefore, the Project Manager is faced with obtaining two separate approvals from HQ for the same work outside the MSC's geographical boundary, if a contract is used. This redundancy is inefficient, unnecessary and contrary to the USACE business process.

4. Discussion:

a. Brokered Work: As noted in the ER, it is the intent of the Corps of Engineers to establish policies and procedures that support and enhance the goal of providing a "single door" to our customers so they have the resources, including contracting resources, of the entire Corps of Engineers available to support their needs. The ER also acknowledges that, "As an integral part of our normal business practices, individual activities have been assigned geographical or functional responsibilities to ensure customers receive the best corporate response to their needs and expectations." The ER fully supports the USACE Business Process by requiring coordination between the performing District and the affected District. The process for brokering is spelled out in paragraph 5.b.(5) of the ER, and requires no more than, "the written approval of the USACE activity in whose geographical or functional area the work is located."

b. Other Work Performed Outside USACE Activities' AOR: The ER establishes more stringent controls for work that will be performed outside the MSC boundaries that is not brokered between the two USACE activities. The USACE BOD must first approve all work of this type, after full justification by the performing activity. The regulation also provides for input by all affected USACE activities before approval is granted.

c. EFARS 7.102(S-102)(b)(v): As noted above, the EFARS requirement for a formal acquisition plan for both brokered work and work approved by the USACE BOD, duplicates the requirements of the ER while adding no value to the process. Specific acquisition plan requirements in higher level acquisition regulations (DFARS and AFARS) are based on the dollar value of contracts or programs but make no reference to the geographical coverage of the proposed contract. Any contracts issued by a USACE activity exceeding the dollar thresholds in the acquisition regulations, including the EFARS, require an approved acquisition plan. The EFARS requirement for a formal acquisition plan in the context of brokered work or BOD approved work, unnecessarily burdens the acquisition process, and effectively acts as a hindrance to the "one door to the Corps" concept, effectively resulting in "eight doors to the Corps".

5. Recommendations:

a. The requirement for a formal acquisition plan at EFARS 7.102(S-102)(b)(v) should be deleted.

CESAS-CT


SUBJECT: Recommendation to delete the EFARS Requirement for Formal Acquisition Plans for Contracts Beyond MSC Geographical Boundaries

b. Districts should be encouraged to write the scopes of their contracts such that they can provide the seamless support to customers envisioned by ER 5-1-10.

Recommend language such as the following be approved for use by all Districts as appropriate:

"This contract is intended primarily for projects within the geographical boundary of the _____ Division. However, work may be awarded for projects located outside the above-stated geographical boundary on an excepted basis as determined by the Contracting Officer."

Such a change will not only support the "one door to the Corps" concept but will also allow lead Divisions to provide full support to assigned IMA Regions.


ROGER A. GERBER
COL, EN
Commanding

OFFICE OF THE PRINCIPAL ASSISTANT RESPONSIBLE FOR CONTRACTING

SUMMARY OF ACTION

TO: PARC	A/O: Wayne Hardin OFFICE SYMBOL: CEPR-P TELEPHONE #: 202-761-8647			CONTROL #: Not Applicable
SUBJECT: Proposed Procurement Instruction Letter (PIL) 2003- 18, Revision of EFARS Part 7.102(S-102)(b)(v), Formal Acquisition Plans.				
RECOMMENDATION: PARC review and approve EFARS Part 7 Revision by signing PIL Memorandum at <u>TAB X</u> (right side of this folder).				
SUMMARY OF ACTION: 1. The EFARS Working Group (EWG) prepared this PIL to provide flexibility to structure acquisitions to align with customer boundaries. The decision matrix showing and explaining the revision is at Enclosure 2 of the PIL. 2. Rationale for the revision was provided by the Savannah District - SAS. Their analysis is included as Enclosure 3 of the PIL. The effort of SAS is commended in the PIL. 3. Changed pages of the EFARS are at Enclosure 1 of the PIL.				
CONCUR/NONCONCUR	NAME	OFC SYMBOL	DATE	INITIALS
CONCUR	WAYNE HARDIN	CEPR-P	30 OCT 03	DIV CHIEF: <i>Hardin</i>
				ACQ REF ADV:
				DEPUTY CHIEF:
			30 OCT 03	SECRETARY: <i>GN</i>
<i>Approved</i>	<i>Mark</i>	ZB	10 OCT 03	PARC: <i>AG</i>

EWG Coordination: By Email (attached to this summary sheet)

Karen Thornton

Don Evick

Mark Grammer

Judith Blake

Mark is TDY; but concurred in our EWG meeting.
Hardin
30 OCT 03

Under the new provisions of EFARS 7.102(b)(v) it is not necessary to obtain a Formal Acquisition Plan where MSC Corp boundaries are being extended to align with a specific customer's geographic boundaries.